

**Board Meeting Minutes
September 5 & 6, 2002**

**Board for Professional Engineers and Land Surveyors
DoubleTree Hotel-Fisherman's Wharf
Two Portola Plaza
Monterey, California 93940
(831) 649-4511**

Thursday, September 5, 2002

Board Members Present: Millicent Safran (President), James Foley, David Fruchtman, Andrew Hopwood, Stephen Lazarian, Michael Welch, and Dale Wilson.

Board Members Absent: Gregg Brandow (Vice-President), David Chen, Arthur Duffy, and Kathryn Hoffman.

Board Staff Present: Cindi Christenson (Executive Officer), Gary Duke (Legal Counsel), Nancy Eissler (Attorney General Liaison Analyst), Cindy Morris-Hoppe (Executive Analyst), Janeece Sargis (Examination Analyst).

Public Present: See Attached

1. Roll Call to Establish a Quorum

The meeting was called to order at 10:15 a.m. Roll call was taken, and there was no quorum. Mr. Duke advised that since there was not a quorum, the Board could meet as a Committee of the Whole to discuss items and then the Board could take action once a quorum was present. Mr. Lazarian arrived at 11:05 a.m., and a quorum was established.

2. Public Comment

Mr. Pierce had questions regarding the status of the Title Act Study.

Mr. Mills commented on the proposed regulations regarding the Codes of Professional of Conduct.

11. Examination/Qualifications

b. Psychometric Recommendations regarding the Special Civil Examination (Possible Action)

The Board reviewed and considered psychometric recommendations for the Special Civil Examination as presented by Dr. Raymond Bradley from PMES. The recommendations included: (1) the use of stricter item selection statistics; (2) a policy that certain questions used for a second

time on an exam must remain as they were originally administered, (3) in order to determine the cutscore and monitor exam performance, use of first-time data would be necessary; and, (4) "anchor items" would need to be identified and used for each exam (anchor items are items that meet specific criteria regarding their content (clear, free of bias, entry-level, unchanged from prior use, etc.)

PMES pointed out that if anchor items are used, they would be included on an exam twice within a 6-month period, rather than the current policy of "shelving" an item for two years before it is used again.

According to Dr. Bradley, the above recommendations would need to be implemented in order for PMES to begin an IRT (Item Response Theory) feasibility study.

MOTION: Mr. Hopwood/Mr. Wilson moved that the above psychometric recommendations be implemented immediately for the Special Civil Examination.

VOTE: 8-0, motion carried.

c. Approval of Awarding of RFP #7080-02-02 and RFP #7080-03-02 for Examination Development Services for the Geotechnical Engineering and Structural Engineering Examinations (Possible Action)

MOTION: Mr. Hopwood/ Mr. Wilson moved to approve the contracts relating to RFP #7080-02-02 and RFP #7080-03-02 for examination development services for the Geotechnical Engineering and Structural Engineering examinations be awarded to the Chauncey Group International.

VOTE: 8-0, motion carried.

d. Status of Examination Development Contracts

The Board reviewed the current status of the examination development contracts.

8. Title Act Study (Status)

Ms. Christenson reported that the Title Act Study has been given to DCA and that the Board will not be able to see the report until it is turned over to Legislature.

17. President's Report

President Safran reported on the NCEES Annual meeting in La Jolla, California. President Safran said the highlight was the presentation by the Illinois Structural

Engineer Board Member who led the FEMA team investigating the collapse of the World Trade Center.

18. Executive Officer's Report

1. Administration Report

a. Executive summary report

Ms. Christenson reported on this item.

2. Personnel

a. Hiring freeze

Ms. Christenson reported that the Governor has ordered the hiring freeze to last until June 2003.

Ms. Christenson also reported on the State Budget and thanked the Board members for being so patient. The budget was signed on September 5, 2002.

b. Vacancies

Ms. Christenson reported that we have 7 vacancies.

3. Enforcement/Examination/Licensing

a. College Outreach

Ms. Crawford has a couple of College Outreach programs planned for the future.

4. Publications/Website

a. Website activity

Ms. Christenson reported that our license look up site has had the most "hits" on our website.

5. Other

a. DCA update

No report given.

3. Closed Session

The Board went into closed session at 11:20 a.m.

9. Hearing on the Petition for Reinstatement of Revoked License of Kirk W. Copsey, OAH #N 2002080450 (This matter will be heard on Thursday, September 5, 2002, beginning at 1:00 p.m., or as soon thereafter as the matter may be called.)

10. Closed Session pursuant to Government Code section 11126(c)(3) regarding Administrative Adjudication (This Closed Session will be held immediately following the hearing on Thursday, September 5, 2002.)

The hearing on the Petition for Reinstatement of Revoked License of Kirk W. Copsey began at approximately 1:00 p.m. and was conducted by Administrative Law Judge Mary-Margaret Anderson sitting with the Board. Following the hearing, the Board went into Closed Session to direct the judge as to the Board's decision.

Following the Closed Session, the Board recessed the meeting at 3:00 p.m. to begin again at 9:00 a.m. on Friday, September 6, 2002.

Friday, September 6, 2002

Board Members Present: Millicent Safran (President), Gregg Brandow (Vice-President) James Foley, David Fruchtman, Andrew Hopwood, Stephen Lazarian, Michael Welch, and Dale Wilson.

Board Members Absent: David Chen, Arthur Duffy, and Kathryn Hoffman.

Board Staff Present: Cindi Christenson (Executive Officer), Gary Duke (Legal Counsel), Nancy Eissler (Attorney General Liaison Analyst), Cindy Morris-Hoppe (Executive Analyst), Debbie Thompson (Budget Analyst).

Public Present: See Attached

1. Roll Call to Establish a Quorum

The meeting was called to order at 9:10 a.m. Roll call was taken, and a quorum was established.

2. Public Comment

No public comment.

4. Open Session to Announce the Results of Closed Session

Ms. Christenson reported that the Board adopted the results of the take-home examination for the candidates who had previously passed the 8-hour portion of the indicated examinations.

Ms. Christenson reported that the Board adopted the Stipulation regarding Randall Smith, adopted the Stipulation regarding Ronald Warrecker, and adopted the Proposed Decision regarding Duane Keith Miller.

Ms. Christenson also reported that the Board discussed the PLS exam.

Ms. Christenson reported that the Board discussed pending litigation as noticed.

5a. Approval of the Minutes of the July 25 & 26, 2002, Board Meeting.

MOTION: Mr. Lazarian/Mr. Wilson moved to approve the minutes of the July 25 & 26, 2002, Board Meeting.

VOTE: 8-0, motion carried.

5b. Approval of Candidates for Certification/Licensure. (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)

MOTION: Mr. Lazarian/Mr. Wilson moved to approve candidates for licensure and certification based on examination results, including successful appeal results and take home examination results, approved in closed session.

VOTE: 8-0, motion carried.

6. Approval of Delinquent Reinstatements.

MOTION: Mr. Hopwood/Mr. Wilson moved to approve the Delinquent Reinstatements as follows:

Civil

- 1. Carmine Polito**
Reinstate applicant's civil license.
- 2. Thomas West**
Reinstate applicant's civil license once he/she takes and passes the Board's Laws and Rules Examination and pays all required delinquent renewal fees.

Petroleum

- 1. Sharlene P. Hower (Piper)**
Reinstate applicant's petroleum license once he/she takes and passes the Board's Laws and Rules Examination and pays all required delinquent renewal fees.

VOTE: 8-0, motion carried.

7. Comity and Temporary Authorization Applications.

MOTION: Mr. Hopwood/Mr. Wilson moved to approve the Comity applicants listed on Pages 31 & 32 of the Board agenda for licensure.

VOTE: 8-0, motion carried.

11. Examination/Qualifications

a. Consideration of Offering EIT Examination in Japan (Possible Action)

Mr. Hiroshi Uchida, PE and Dr. Takehira Takayanagi, PE, SE from JPEC (Japan PE/FE Examiners Council), gave a presentation to the Board regarding a request for assistance in proctoring the EIT examination in Japan.

Some of the issues to consider:

- Board members who assist in proctoring will need to be trained on examination security procedures.
- Conflict of Interest issues will need to be referred to legal counsel to determine whether payment of expenses by JPEC to Board members poses any problem.
- Problems obtaining out-of-country travel approval.
- Any conflict with NCEES examination policy and procedures.
- Liability issues, if any.
- Time difference of 16 hours.

12. **Administrative**

a. **Fund Condition (Possible Action)**

Ms. Thompson reported on the changes to the fund condition dated August 23, 2002, which include a reduction to the BCPs by \$15,000. The exam applicant revenue projections have been increased due to an increase in population. Lastly, the fiscal impact for the proposed biennial renewal regulations was adjusted downward in FY 2004-05 because State and Consumer Services Agency (SCSA) requested the Board reduce the biennial renewal fee in FY 2004-05 from \$160 to \$120. The reason given by SCSA for the request was because the Board's projected fund reserve with the fee increases would rise above a six-month reserve. They want the Board to adhere to DOF's recommended three to six-month reserve limit.

Ms. Safran asked if the Board could continue to stay at its current office location if the lease BCP is not approved. Ms. Thompson indicated that the Board could renew its lease and would need to absorb the increase within its existing budget.

b. **FY 2002/03 Budget (Possible Action)**

Based on the July 31, 2002 expense reports, Ms. Thompson reported that there is a projected \$161,000 in excess budgeted funds available after projected expenditures for this FY. This FY's expenses are, however, \$120,000 less than actual expenditures for last FY. Expenses include increases of \$78,000 for NCEES exam grading due to the Board's exam population growth and approximately \$5,000 for the cost increase of the Board's office space lease. Costs for Special Civil exam occupational analyses are not included in this FY's budgeted expenses. The last Special Civil occupational analysis was in 1996.

c. **Statewide Position and Dollar Reduction Plan**

Ms. Thompson reported that the Board's position cuts submitted to Department of Finance (DOF) amounted to \$296,000 for six of its vacant positions. DOF increased this amount to \$306,000 because it used higher pay scales to calculate the position dollars. With a projected \$161,000 in

excess funds for this FY, the Board will need \$145,000 in **permanent** expense cuts to absorb the position funding reduction of \$306,000 recommended.

Ms. Thompson reviewed 14 different cuts proposed by Board staff amounting to \$246,000. Ms. Thompson pointed out that the proposals to reduce exams now offered twice each year to once each year would not generate a savings because historical data shows that the exam population remains constant whether one or two exams per year are offered. Another proposal not feasible is a cut in the enforcement cases submitted to the Attorney General's Office. Such a cut could trigger DOF to permanently cut the funds if cases are purposefully cut back to pay for expenses in other areas. The Attorney General budget line item is controlled, meaning that the budgeted funds should not be used for other purposes. Ms. Thompson also pointed out that a cut in SME expenses was needed because SME costs have significantly increased each FY. Without BCP funding to support SME increases, continuous cost increases must be contained or permanent cuts made in other areas. Lastly, the proposal to include examinee instructions on the Board's Website may cost more in legal costs than savings generated.

Regarding the proposal to reduce the number of exam sites from five to four, Ms. Safran expressed concern that the Board may not get enough proctors. Ms. Christenson indicated that the Board already has problems with recruitment of proctors and that this will need to be resolved before the proposal could take place. The sites eliminated would be Tulare for the October exam and Visalia for the April exam. There are less than 1,000 candidates at these locations per exam administration. Ms. Christenson indicated the candidates would likely be moved to Pomona or San Mateo.

Regarding the proposal to reduce the number of Board meetings, the Board decided to cancel the meetings scheduled to be held in December 2002 and March 2003 and to postpone the meetings scheduled for October 17 & 18, 2002, to November 21 & 22, 2002.

MOTION: Mr. Hopwood/Mr. Lazarian moved to approve the \$148,000 in cuts identified below.

- 1) Reduce from 4 to 2 the number of TAC meetings (\$13,000).
- 2) Include Enforcement Bulletins on Website (\$47,000).
- 3) Include Structural Application on Website (\$3,000).
- 4) Cut two Board meeting for this FY (\$20,000).
- 5) Reduce the number of SMEs used (\$22,000).
- 6) Reduce the number of out-of-state trips taken (\$8,000).

- 7) Reduce down to \$7,000 the expense for computer equipment purchases (\$19,000).
- 8) Reduce one exam site per exam administration (\$16,000).

VOTE: 8-0, motion carried.

d. FY 2003/04 Budget Change Proposals (Possible Action)

Ms. Thompson reported that the State and Consumer Services Agency (SCSA) is still reviewing the Board's BCPs, which are due to DOF in the next couple of weeks. The Board doesn't anticipate approval of these BCPs. DOF's recommendations on the BCPs should come out in November of this year.

Mr. Foley questioned if the Board's lease was paid for from the Board's budget or if it was included in pro rata. Ms. Thompson indicated that the lease is included in the Facilities Operations budget line item within the Board's budget. Mr. Foley also asked if the cost of relocation to an alternate office location would come from the Board's budget. Ms. Thompson stated that the office relocation cost would also come directly from the Board's budget. The expense of the Board's last office relocation was approximately \$100,000.

e. Administration of NCEES Structural Examination Twice Each Year

At the request of Board members at the last meeting, Ms. Thompson prepared a cost estimate of adding an additional NCEES Structural exam in April of each FY. The state-specific exam is currently administered every October. Effective with the October 2004 exam, the Board must add the NCEES structural exam to the state-specific. The cost for an additional NCEES Structural exam would be \$26,000. However, this assumes no additional exam site space will be needed. A BCP would need to be prepared for this to take place. Ms. Safran suggested that this information be put on hold because the Board's budget cannot accommodate such an increase at this time. A FY 2004/05 BCP could be submitted in June of 2003 to request the additional funding.

13. Legislative

a. Discussion of Legislation for 2002, including but not limited to: AB 269 (support), AB 2283 (Watch), SB 1347 (watch), SB 2018 (support), SB 2024 (support), SB 2025 (support), SB 2026 (support), SB 2059 (watch). (Possible Action)

Mr. Hopwood advised the Board that AB 2283, SB 1955, SB 2018, SB 2025, and SB 2026 had all been approved by the Legislature and sent to the Governor for signature.

b. Status of Regulations.

Mr. Hopwood reported that the following regulations will be discussed/reviewed in 2002/03:

- ABET Approval of Foreign Degrees
- LSIT experience requirements

14. Enforcement

a. Enforcement Program Update

- 1. Enforcement Outreach Program**
- 2. Status of Rulemaking Proposal to Amend Board Rule 404 (Definitions)**
- 3. Status of Rulemaking Proposal to Adopt Board Rules 475 & 476 (Codes of Professional Conduct)**
- 4. Status of Discussions regarding Amendments to Board Rules 404.1 & 404.2 (Definitions of Responsible Charge)**

Ms. Eissler advised the Board that there were no further updates to the information contained in the Board agenda packet.

b. Review of the Board's Policy on Disclosure of Complaints and Disciplinary Actions and the Department of Consumer Affairs' Recommended Minimum Standards for Consumer Complaint Disclosure (Possible Action)

Ms. Eissler reviewed the information contained in the agenda packet. She advised the Board that minor, non-substantive changes should be made to the Board's current Disclosure Policy to provide for further clarification as to what information is and can be released, especially regarding criminal actions.

After brief discussion, the following motion was made:

MOTION: Mr. Hopwood/Mr. Lazarian moved to revise the Policy of the Board for Professional Engineers and Land Surveyors on Disclosure of Complaints and Disciplinary Actions as shown in the Board agenda packet, using the following language for the second paragraphs under "Final Orders/Decisions" and "Criminal Actions":

In addition to providing the information described above regarding [final orders/decisions or criminal actions] upon request, the Board will publicize such [final orders/decisions or criminal actions] in any manner, consistent with the provisions of the Information Practices Act (Civil Code section 1798, et seq.), the Public Records Act (Government Code section 6250, et seq.), and other applicable laws, that the Board deems appropriate, including, but not limited to, issuing press releases, publishing articles in Board

publications and on the Board's Internet site, and providing information to the regulatory agencies for engineering and/or land surveying in other states.

VOTE: 8-0, Motion carried.

15. Technical Advisory Committee Reports (Possible Action)

a. Land Surveying (no meeting)

1. Appointment of LS-TAC Members (Possible Action)

MOTION: Mr. Welch/Mr. Hopwood moved to appoint Carl Robert C deBaca, Michael Bruce Emmons, Thomas B. Mastin, and Rick Moore to the LS-TAC Committee for a two-year term expiring June 30, 2004.

VOTE: 8-0, motion carried.

b. Civil Engineering (no meeting)

No report given.

c. Geotechnical Engineering (no meeting)

1. Appointment of GE-TAC Members (Possible Action)

MOTION: Mr. Foley/Mr. Lazarian moved to appoint Michael Brown and John Anderson to a third term on the GE-TAC, term to expire June 30, 2004.

VOTE: 8-0, motion carried.

d. Structural Engineering (no meeting)

1. Appointment of SE-TAC Members (Possible Action)

MOTION: Dr. Brandow/Mr. Hopwood moved to appoint Ms. Goodson, Mr. Miyamoto, Mr. Nieblas, and Mr. Winter to the SE-TAC, for two-year terms to expire June 30, 2004.

VOTE: 8-0, motion carried.

e. Mechanical Engineering (no meeting)

No report given.

f. Electrical Engineering (no meeting)

No report given.

g. Board Assignments to TACs (Possible Action)

No report given.

16. Liaison Reports (Possible Action)

a. ABET

Mr. Hopwood reported on this item and gave Board members their assignments as to which school they will be visiting.

Mr. Hopwood requested that all Board members submit a report and to also bring back catalogs if possible.

b. NCEES

Dr. Brandow reported on the NCEES annual meeting held in, La Jolla, California, in August 2002.

Dr. Brandow reported that the action taken that most affects our Board is the increase in examination scoring fees.

c. Technical and Professional Societies

No report given.

19. Approval of Board Travel (Possible Action)

MOTION: Mr. Hopwood/Mr. Foley moved to approve ABET visits for 6 Board Members.

VOTE: 8-0, motion carried.

20. Other Items Not Requiring Board Action

a. Next Board meeting

President Safran reminded everyone that the next Board meeting would be held on November 21 & 22, 2002, as previously discussed during the Administrative item. The meeting will still be held in the Pasadena area.

21. Adjourn

The Board adjourned at 11:55 a.m.

PUBLIC PRESENT

George Shambeck, representing CLSA
Steve Hao, CalTrans
Frank Pierce, CLCPE, CSPE, Lee & Pierce, Inc.
John Humber, CELSOC
Kirk W. Copsey, SDCE
Hiroshi (Hero) Uchida, JPEC
Takehira (Taki) Takayauagi, JPEC
Leo Ruth, CELSOC